

CHAPTER 1088

PROBATE, TRUSTS, AND FIDUCIARIES

H.F. 2335

AN ACT relating to civil law provisions, including notice requirements for the disposition of the real property of an estate, notice and document delivery under the trust code, the powers of an agent under a power of attorney, and liability for refusing to accept an acknowledged power of attorney, and including effective date and retroactive and other applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I

SALE OF REAL PROPERTY OF AN ESTATE — NOTICE REQUIREMENTS

Section 1. Section 633.389, Code 2016, is amended to read as follows:

633.389 Notice on sale, mortgage, exchange, pledge, or lease of property.

Upon the filing of the petition, unless notice is waived in writing, or unless all interested persons are also personal representatives and have signed the petition, notice in accordance with [section 633.40](#), shall be served on all persons interested in the property, provided that as to personal property and as to the lease of real property not specifically devised, for a period not to exceed one year, the court may hear the petition without notice. When notice is required, the notice shall state briefly the nature of the application. Upon satisfactory proof, the court may order the sale, mortgage, exchange, pledge or lease of the property described, or any part of the property, at a price and upon terms and conditions as the court may authorize. For the purposes of [this section](#), the term “*all persons interested*” includes only distributees in the estate and persons who have requested notice as provided by this probate code.

DIVISION II

TRUST CODE — NOTICE AND DOCUMENT DELIVERY REQUIREMENTS

Sec. 2. NEW SECTION. 633A.1109 **Methods of notice and document delivery — waiver.**

Except as otherwise provided by [this chapter](#):

1. Giving notice to a person, including notice of a judicial proceeding, or the sending of a document to a person under [this chapter](#) shall be accomplished in a manner reasonably suitable under the circumstances and likely to result in receipt of the notice or document. Permissible methods of giving notice or sending a document include first-class mail, personal delivery to a person’s last known place of residence or place of business, or by properly directed electronic mail. When notice in a trust proceeding is served on an interested party via the United States postal service, the service is made and completed when the notice being served is enclosed in a sealed envelope with proper postage paid, is addressed to the interested party at the party’s last known post office address, and is deposited in a mail receptacle provided by the United States postal service.

2. In the case of a proceeding against an unknown person whose address or whereabouts are unknown, the court shall prescribe that notice may be served by publication within the time and in the manner provided by the rules of civil procedure.

3. Notice under [this chapter](#) or the right to receive a document under [this chapter](#) may be waived by the person to be notified or entitled to receive the document.

4. For purposes of [this section](#), “*properly directed*” means directed to an electronic mail address that the sender reasonably believes is a current electronic mail address of the recipient.

Sec. 3. **APPLICABILITY.** This division of this Act applies to notices and documents sent on or after July 1, 2016, regarding trusts in existence on or created after July 1, 2016.

DIVISION III
POWERS OF ATTORNEY — POWERS OF AN AGENT — LIABILITY FOR REFUSAL TO
ACCEPT ACKNOWLEDGED POWER OF ATTORNEY

Sec. 4. Section 633B.120, subsection 3, paragraph b, Code 2016, is amended to read as follows:

b. Liability for damages sustained by the principal ~~for~~ and reasonable attorney fees and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney, provided that any such action must be brought within one year of the initial request for acceptance of the power of attorney.

Sec. 5. Section 633B.204, subsections 2 and 3, Code 2016, are amended to read as follows:

2. Sell; exchange; convey with or without covenants, representations, or warranties; quitclaim; release; surrender; retain title for security; encumber; partition; consent to partitioning; be subject to an easement or covenant; subdivide; apply for zoning or other governmental permits; plat or consent to platting; develop; grant an option concerning; lease; sublease; contribute to an entity in exchange for an interest in that entity; or otherwise grant or dispose of an interest in real property or a right incident to real property, including the transfer or release of any and all of the principal's homestead rights under [section 561.13](#) and [chapter 597](#).

3. Pledge or mortgage an interest in real property or a right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal, including the transfer or release of any and all of the principal's homestead rights under [section 561.13](#) and [chapter 597](#).

Sec. 6. Section 633B.211, subsection 2, paragraph h, Code 2016, is amended by striking the paragraph.

Sec. 7. Section 633B.214, subsection 2, Code 2016, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Create and fund a medical assistance income trust as defined in [section 633C.1](#) or a trust or device that meets the criteria of 42 U.S.C. §1396p(d)(4)(B)(i)-(ii) that is authorized under the applicable law of another jurisdiction in which the principal is a resident.

Sec. 8. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 9. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to July 1, 2014.

Approved April 13, 2016